

<p style="text-align: center; font-weight: bold;">OCT 15 2020</p> <p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): ELLIS & BAKH, LLP Jonathan Bakhsheshian, Esq. (304282) - Anthony Ellis, Esq. (306446) 15303 Ventura Blvd., #900 Sherman Oaks, CA 91403</p> <p>TELEPHONE NO: (818) 736-0099 FAX NO. (Optional): (818) 736-4940 E-MAIL ADDRESS (Optional): jonathan@ellisbakh.com ATTORNEY FOR (Name): EDUARDO DAMIAN HERNANDEZ</p>	<p style="text-align: center; font-weight: bold;">FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA</p> <p>STREET ADDRESS: 800 S. Victoria Avenue MAILING ADDRESS: 800 S. Victoria Avenue CITY AND ZIP CODE: Ventura, 93009 BRANCH NAME: HALL OF JUSTICE</p>	
<p>PLAINTIFF: EDUARDO DAMIAN SR. HERNANDEZ</p> <p>DEFENDANT: DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and</p> <p><input checked="" type="checkbox"/> DOES 1 TO <u>30</u> inclusive.</p>	
<p>COMPLAINT—Personal Injury, Property Damage, Wrongful Death</p> <p><input type="checkbox"/> AMENDED (Number):</p> <p>Type (check all that apply):</p> <p><input checked="" type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify):</p> <p><input checked="" type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):</p>	
<p>Jurisdiction (check all that apply):</p> <p><input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000</p> <p><input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited</p>	<p>CASE NUMBER:</p>

1. **Plaintiff (name or names):** **EDUARDO DAMIAN SR. HERNANDEZ** *By FAX*
 alleges causes of action against **defendant (name or names): DAMIAN P. EMRICH; SHANDRA D. EMRICH;
 ANDREW CHARLES EMRICH; and DOES 1 to 30, inclusive.**
2. This pleading, including attachments and exhibits, consists of the following number of pages: **7**
3. Each plaintiff named above is a competent adult
- a. ☐ **except plaintiff (name):**
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
- b. ☐ **except plaintiff (name):**
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

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HERNANDEZ v. EMRICH, et al.

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 21-30 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1-20 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

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HERNANDEZ v. EMRICH, et al.

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☒ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☐ other damage (specify):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: October 14, 2020

Jonathan Bakhsheshian, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

HERNANDEZ v. EMRICH, et al.

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—General NegligencePage FOURATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): EDUARDO DAMIAN SR. HERNANDEZ

alleges that defendant (name): DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 1 to 30

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): August 20, 2018

at (place): North Ojai Road and East Virginia Terrace in Santa Paula, CA.

(description of reasons for liability):

Defendant(s), Defendants' employees and or agents, and each of them, so negligently, carelessly, recklessly, and wantonly drove, managed, maintained, controlled, operated and entrusted their motor vehicle so as to legally cause the plaintiff to be injured when the driver of the defendant's vehicle suddenly, unexpectedly and negligently operated the defendant's vehicle so as to legally cause a collision with plaintiff. That as a direct and legal result of the negligence on the part of the defendant(s), and each of them, plaintiff was caused to sustain injuries and damages as herein alleged.

Defendant(s), Defendants' employees and or agents, and each of them, negligently hired, trained, supervised, retained, employed, and/or managed their employees, agents and assigns so as to legally cause a collision with plaintiff. That as a direct and legal result of the negligence on the part of the defendant(s), and each of them, plaintiff was caused to sustain injuries and damages as herein alleged.

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HERNANDEZ v. EMRICH, et al.

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SECOND

(number)

CAUSE OF ACTION—Motor Vehicle

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name): EDUARDO DAMIAN SR. HERNANDEZ

MV- 1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred

on (date): August 20, 2018

at (place):

North Ojai Road and East Virginia Terrace in Santa Paula, CA.

MV- 2. DEFENDANTS

a. ☒ The defendants who operated a motor vehicle are (names):

DAMIAN P. EMRICH; and

☒ Does 1 to 5b. ☒ The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names):

DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 6 to 10c. ☒ The defendants who owned the motor vehicle which was operated with their permission are (names):

DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 11 to 15d. ☒ The defendants who entrusted the motor vehicle are (names):

DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 16 to 20e. ☒ The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 21 to 25f. ☒ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are☐ listed in Attachment MV-2f ☐ as follows:

DAMIAN P. EMRICH; SHANDRA D. EMRICH; ANDREW CHARLES EMRICH; and

☒ Does 26 to 30

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ATTACHMENT (Number): 1*(This Attachment may be used with any Judicial Council form.)*

Pursuant to a written agreement by Defendants, the statute of limitations was extended from August 23, 2020, by 90 days, to October 22, 2020. See attached correspondence to this attachment.

Furthermore, due to the State of Emergency in California, pursuant to Emergency Rule 9: Tolling Statutes of Limitations for Civil Causes of Actions, Section A, notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed or are less than 180 days, are tolled from April 6, 2020, until October 1, 2020.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 2*(Add pages as required)*

Review Our Offer

Attachment 1

October 9, 2020

Dear Eduardo Hernandez,

USAA policyholder: Shandra D Emrich
Claim number: 005935924-032
Date of loss: August 23, 2018
Loss location: Santa Paula, California

We previously informed you that we were extending the statute of limitations for your loss by 90 days due to the state of emergency in California. The updated deadline to settle your injury claim is: October 22, 2020.

If you believe this claim has been wrongfully declined or rejected, in whole or in part, or that there is a dispute as to liability or damages, you have the right to have the matter to be reviewed by the California Department of Insurance.

California Department of Insurance
Claims Services Bureau, 11th Floor
300 South Spring Street
Los Angeles, CA 90013
213-897-8921 or 800-927-4357

How to Contact Us

Please send any correspondence or questions to us using one of the following options and include the claim or reference number above on each page:



Address:

USAA Claims Department
P.O. Box 33490
San Antonio, TX 78265



Fax:

1-800-531-8669



Phone:

1-800-531-8722 Ext. 31268

005935924 - DM-01771 - 032 - 8522 - 03

54407-0519

Sincerely,

Justine R Cruz
Injury Unit
USAA Casualty Insurance Company

cc : Eduardo Hernandez